

III. REMARKS

Claims 1-22 are pending in this application. By this amendment, claims 1, 8, 14 and 19 have been amended. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-22 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1-22 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 1-22 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Spiegel (U.S. Patent No. 6,466,918), hereafter “Spiegel.”

A. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §112, FIRST PARAGRAPH

The Office has stated that claims 1-22 fail to comply with the written description requirement. Specifically, the Office objects to the limitation “specified attribute” in the claims. Applicant respectfully disagrees and submits that this limitation is supported, *inter alia*, by paragraph 0032 of the original specification. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

B. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The Office has stated that claims 1-22 are indefinite. Specifically, the Office states that Applicant has omitted the operative element that the invention “dynamically generates a page based on the result of the query.” Applicant respectfully disagrees, submitting that the limitation remained in the claim in the latest amendment. However, in the interests of expedited prosecution Applicant has amended the claims to recite “and a page is dynamically generated based on the result of the query.” Accordingly, Applicant respectfully requests that the rejection be withdrawn.

C. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §102(b)

With respect to the 35 U.S.C. §102(b) rejection over Spiegel, Applicant asserts that Spiegel does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 8, 14 and 19, Applicant continues to submit that Spiegel fails to teach that each of the items in the hierarchical structure is located using a database search query for each level of the hierarchical structure and a page is dynamically generated based on the result of the query, wherein the query returns a set of records containing the items based on a specified attribute of the items. The passage of Spiegel cited by the Office teaches browse trees for locating items that may require the user to navigate downward through multiple levels of the tree to find a desired category. Col. 1, lines 25-59. However, nowhere in the cited passage or elsewhere does Spiegel indicate that a database query that returns a set of records containing the items based on a specified attribute of the items is used to navigate the browse tree or that a page is dynamically generate based on the result thereof.

In fact, Spiegel does not indicate the use of a query that uses an attribute of the data to return the data or indicate dynamic generation of a page anywhere in the specification. Rather, in Spiegel “[t]he featured books and categories are displayed as respective hyperlinks that provide *a direct path* to the corresponding books and categories.” Col. 7, lines 17-19, *emphasis added*. This Office argues that this passage is not indicative of the entirety of Spiegel, but rather, “...merely refers to a minor aspect of the results presented on the dynamically generated page.” Final Office Action, page 3, final paragraph. Applicant respectfully submits that a closer reading of the following paragraph shows that the links referred to in the above quotation are not isolated, but are rather ubiquitous, stating “[t]he Web page also provides *links* to the immediate subcategories of the selected book category in alphabetical order.” Col. 7, lines 25-27, *emphasis added*. To this extent, the featured books and categories and the immediate subcategories of Spiegel are not located using an attribute based database search query for each level, but rather by hyperlinks that provide a direct path to a previously prepared location. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With further respect to independent claims 1, 8, 14 and 19, Applicant respectfully submits that Spiegel also fails to teach automatically generating the query for each level of the hierarchical structure. Even assuming, *arguendo*, that the hyperlinks of Spiegel do contain a request, an instruction that a specific hyperlink refers to is not necessarily automatically generated upon activation of the hyperlink and Spiegel does not teach such automatic generation upon hyperlink activation. In fact, Spiegel does not teach automatically generating anything upon selection of a hyperlink, but rather that its hyperlink provides a direct link. To this extent, even if Spiegel does use queries as asserted by the Office, they are not dynamically generated.

In support of this position, Applicant respectfully submits that the portions of Spiegel cited by the Office teach only that the identifying of the most “popular” nodes is done automatically and that these automatically identified nodes are called to the attention of users during navigation of the browse structure by elevating the nodes in the browse structure. Col. 1, line 60 through col. 2, line 4; col. 2, lines 26-36; col. 6, lines 5-20. To this extent, it is the identification of nodes that is automatic, and not the generation of queries for traversing the hierarchy. Accordingly, nowhere in the portions cited by the Office or elsewhere does Spiegel teach automatically generating queries.

The claimed invention, in contrast, includes “...automatically generating the query for each level of the hierarchical structure.” Claim 1. As such, unlike in Spiegel, in the claimed invention a query is automatically generated for each level of the hierarchical structure. This is in contrast to the static link-based structure of Spiegel. Accordingly, Applicant requests that the rejection be withdrawn.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/Hunter E. Webb/

Date: October 7, 2008

Hunter E. Webb
Reg. No.: 54,593

Hoffman Warnick LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)